

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

OSCAR BARNES and)	
GWENDOLYN BARNES,)	
)	
Plaintiffs,)	CIVIL ACTION
)	FILE NO. _____
v.)	
)	[On removal from the Superior Court
STATE FARM FIRE AND)	of Gwinnett County, Civil Action File
CASUALTY COMPANY,)	No. 23-A-06462-6]
A foreign corporation,)	
)	
Defendant.		

NOTICE OF REMOVAL

Comes now, STATE FARM FIRE AND CASUALTY COMPANY (hereinafter “State Farm”), by and through its undersigned counsel, and hereby files this Notice of Removal, respectfully showing this Honorable Court as follows:

1.

On July 27, 2023, Plaintiffs OSCAR BARNES and GWENDOLYN BARNES (the “Plaintiffs”), by and through counsel, filed a Complaint against State Farm in the Superior Court of Gwinnett County, Georgia, which is a county within the Atlanta Division of this Court, styled as *OSCAR BARNES and GWENDOLYN BARNES v. STATE FARM FIRE AND CASUALTY COMPANY*, and assigned Case

No. 23-A-06462-6 (the “Superior Court Action”). True and correct copies of all process, pleadings, and orders served upon this defendant to date in the Superior Court Action are collectively attached hereto as **Exhibit “A.”**

2.

The Complaint and Summons in this action were served upon State Farm on August 2, 2023, the date on which State Farm first received the Complaint and notice of this lawsuit. State Farm shows that this Notice of Removal is filed within thirty (30) days from the date of service of said suit on Defendant. Thus, removal is timely under 28 U.S.C. § 1446(b).

3.

The United States District Court for the Northern District of Georgia, Atlanta Division, embraces Gwinnett County, Georgia. Removal to this Court is therefore proper under 28 U.S.C. § 1441(a).

4.

Pursuant to 28 U.S.C. § 1446(d), promptly after the filing of this Notice of Removal, State Farm will give written notice to the Plaintiffs by notifying their attorney of record, Michael D. Turner, Esq., of The Huggins Law Firm, LLC, and will file a copy of the Notice of Removal with the Clerk of Superior Court of Gwinnett County, which shall effect the removal.

DIVERSITY JURISDICTION

5.

The United States District Court for the Northern District of Georgia, Atlanta Division, possesses diversity jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

6.

Plaintiffs OSCAR BARNES and GWENDOLYN BARNES are residents of Atlanta, Georgia and citizens of the State of Georgia.

7.

State Farm is a corporation organized under the laws of the State of Illinois, with its principal place of business in the State of Illinois. Thus, State Farm is a citizen of the State of Illinois.

8.

Because Plaintiffs and State Farm are citizens of different States, complete diversity exists between Plaintiffs and State Farm in accordance with 28 U.S.C. § 1332(a)(1).

9.

This action is a civil action between citizens of different state where the controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

Plaintiffs expressly allege in their Complaint that they are entitled to all damages to their Property and any resulting expenses and temporary repairs, as well as bad faith damages and attorney's fees and costs. See, Complaint, Prayer for Relief. Given the statements of Plaintiffs regarding the value of their claim and the amount they contend they are entitled to recover, the amount in dispute in this matter will exceed the jurisdictional requirement of \$75,000.00.

10.

More specifically, in Plaintiffs' Complaint, Plaintiffs seek damages in the amount of \$334,011.52. *See* Complaint, ¶ 17. Plaintiffs also seek bad faith damages in the "amount of fifty percent (50%) of the total compensatory damages awarded or \$5,00.00, whichever is greater[.]" *See* Complaint, Prayer for Relief. Plaintiffs seek further unspecified damages against State Farm, asking to recover "[a]ny and all applicable multipliers" and "[a]ny and all other relief that the Court may deem just and proper[.]" *See* Complaint, Prayer for Relief. Accordingly, the amount in controversy, exceeds \$75,000.00, exclusive of interest and costs, as required by 28 U.S.C. § 1332(a).

11.

This case is a civil action that may be removed to this Court pursuant to 28 U.S.C. § 1441. This Court has original jurisdiction pursuant to 28 U.S.C.

§ 1332(a)(1) and (b) as there is complete diversity of citizenship between Plaintiffs and Defendant and, as shown above, the amount in controversy exceeds \$75,000.00. Further, as required by 28 U.S.C. § 1441(b), Defendant State Farm is not a citizen of the State of Georgia.

12.

Venue is proper in this Court for purposes of removal under 28 U.S.C. § 1441(a). By filing this Notice of Removal, State Farm does not waive any of its jurisdictional objections or affirmative defenses.

WHEREFORE, State Farm prays that this action proceed in this Court as an action properly removed pursuant to 28 U.S.C. § 1446, and that no further proceedings be had in said case in the Superior Court of Gwinnett County, Georgia.

This 1st day of September, 2023.

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Christopher A. Wood

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LOCAL RULE 5.1C CERTIFICATION

By signature below, counsel certifies that the foregoing pleading was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1C.

Respectfully submitted this 1st day of September, 2023.

SWIFT, CURRIE, MCGHEE & HIERS

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CERTIFICATE OF SERVICE

I have this day electronically filed the foregoing **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF System. The clerk will serve opposing counsel as follows:

J. Remington Huggins
Michael D. Turner
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Attorneys for Plaintiffs

This 1st day of September, 2023.

SWIFT, CURRIE, McGHEE & HIERS, LLP

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